

ARTFUL INTERVIEWS

An Alternative to Mining Data

In October 2012, just after 6:00am on a weekday, two dozen FBI Agents entered a corporate CEO's 24,000-square-foot mansion. Armed with a search warrant, the Agents were looking for evidence of the CEO's involvement in a multiyear, multimillion-dollar international fraud case. When they left the residence later that day, the Agents took with them an enormous amount of electronic data seized from a variety of devices, as well as many boxes of documents. They had achieved that day's goal: locating, seizing, and preserving potential evidence. However, they were focused on a much larger goal: avoiding ever having to mine through the voluminous amount of data they had just seized.

To the Agents, the data was always part of Plan D. In seizing it, the Agents were merely hedging their bets—they needed it in case Plans A, B, and C failed. In fact, the Agents viewed the data as a quagmire, not a path to success. They knew that while the review of copious amounts of data sometimes yields a valuable piece of evidence, it is always a very costly investigative step that historically yields an exceptionally low return on investment. On a pragmatic level, such large volumes of data are often difficult to sort through because investigators are generally not sure exactly what they are looking for. Most important, the Agents understood that there was no guarantee that the information they were seeking was actually in the data.

From experience, the Agents knew that the answers to all of their important questions—the “who, what, when, where, and why”—could definitely be found in another place—namely, with the people who committed the fraud or their associates. However, getting the truth from people who are in trouble is extremely difficult. Interviewing and obtaining admissions is an art, not a science. Artful interviewing is a learned and counterintuitive skill that often takes decades to master.

It is not what is depicted on TV or in movies. Artful interviews are much more sophisticated and nuanced—closer to what happens on a psychologist's couch than to Hollywood's heavy-handed depiction, and quite a bit different from a lawyer's average deposition.

The Agents chose to focus on the people, not the data. And this choice paid huge dividends. Plan D was not necessary because Plan A worked. Artful interviews of the COO and CIO resulted in their confessions, guilty pleas, and proactive cooperation with the government. Rather than face damning testimony from former co-conspirators at trial, the CEO pleaded guilty. And what became of the voluminous data seized during the search of the CEO's home? It remained unmined. The successful use of artful interviews resulted in an effective and efficient investigation. Data mining and its related costs were avoided, and the Agents were able to move on to the next case quickly. This case is just one example of what the FBI learned long ago: artful interviews almost always beat data mining.

The Agents were careful not to throw the baby out with the bath water. They knew that in certain circumstances, data can be crucial and its mining useful, sometimes essential. So just in case they needed it, they gathered and secured the data before it had a chance to disappear. Thankfully, their abilities to perform artful interviews ensured that they never would.

I have more than a passing familiarity with the case described above. I was the Case Agent, the one who focused on people and avoided getting buried in data. I am no longer an FBI Agent. I retired in December 2014, and I now work in the private sector. The investigative strategies of a lot of folks in my new world of corporate investigations seem to focus on data, not people. I'm not sure why. The results speak for themselves. ■



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Charlie Price serves as Managing Director in MorganFranklin Consulting's Corporate Investigations & Dispute Solutions practice. As a decorated FBI Agent for more than 28 years, Price established a national reputation as an expert in the “art of interviewing” and developed a proven track record of resolving complex white-collar investigations fast. He led numerous high-profile national and international investigations, resulting in more than 100 felony white-collar crime convictions and more than \$115 million in losses prevented, fines, recoveries, and restitution.